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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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COMMITTEE AGAINST TORTURE
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Conclusions and recommendations of the Committee against Torture

SAUDI ARABIA

1. The Committee considered the initial periodic report of Saudi Arabia (CAT/C/42/Add.2) at its 516th, 519th, 521st and 524th meetings, on 8, 10, 13 and 15 May 2002 (CAT/C/SR.516, 519, 521 and 524), and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the submission of the initial report, although it regrets the delay in submission and the paucity of information on the practical enjoyment in Saudi Arabia of the rights conferred by the Convention. It generally conforms to the Committee's reporting guidelines. The Committee also welcomes the opportunity to engage in a dialogue with a large delegation covering many matters arising under the Convention, which was enhanced by the extensive oral report.

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B. Positive aspects

3. The Committee welcomes the following:

(a) The State party's accession to the Convention against Torture on 23 September 1997, as well as its accession to several other core human rights treaties and its expressed intention to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The Committee also welcomes the State party's declaration that its domestic law, including its components based upon Shariah, is capable of giving full recognition to the rights and obligations contained in the Convention;

(b) Legal developments designed to enhance the rule of law and the proper administration of justice that have occurred since the preparation of the report, such as aspects of the newly promulgated Code of Civil Procedure, Code of Criminal Procedure and Code of Practice for Lawyers. The Committee welcomes, in particular, that the Code of Criminal Procedure guarantees every accused person the right to avail himself or herself of the services of a lawyer at all stages of an investigation and trial;

(c) The State party's expression that its domestic law provides that no exceptional circumstances, including superior orders, may be invoked as a defence to a charge of torture, the reassurance that statements obtained by torture are inadmissible in proceedings, and the oral assurance that confessions are revocable at any point of proceedings. The State party's reassurance that corporal punishments are not imposed upon minors was noted;

(d) The competence of the Board of Grievances to hear allegations of violations of human rights, and that certain medical facilities possess appropriate forensic medical expertise for examination of alleged victims of torture. The Committee welcomes the establishment of a standing commission to investigate accusations concerning the subjection of any person to torture or other cruel, inhuman or degrading treatment or punishment during the arrest, detention and investigation of suspects;

(e) The State party's invitation to the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers to examine its law, policy and practice in this field.

C. Subjects of concern

4. The Committee is concerned about the following:

(a) While noting the State party's indication that Shariah expressly prohibits torture and other cruel and inhuman treatment, the State party's domestic law itself does not explicitly reflect this prohibition, nor does it impose criminal sanctions. The Committee considers that express incorporation in the State party's domestic law of the crime of torture, as defined in article 1 of the Convention, is necessary to signal the cardinal importance of this prohibition;

(b) The sentencing to, and imposition of, corporal punishments by judicial and administrative authorities, including, in particular, flogging and amputation of limbs, that are not in conformity with the Convention.

(c) The different regimes applicable, in law and in practice, to nationals and foreigners in relation to their legal rights to be free from, and their ability to complain of, conduct in violation of the Convention. The Committee recalls that the Convention and its protections are applicable to all acts in violation of the Convention that occur within its jurisdiction, from which it follows that all persons are entitled, in equal measure and without discrimination, to the rights contained therein;

(d) Allegations of prolonged pre-trial detention of some individuals beyond the statutory limits prescribed by law, which heightens the risk of, and may on occasion of itself constitute, conduct in violation of the Convention. In this connection, the Committee expresses its concern at instances of denial, at times for extended periods, of consular access to detained foreigners. Moreover, the Committee is concerned at the limited degree of judicial supervision of pre-trial detention;

(e) Reports of incommunicado detention of detained persons, at times for extended periods, particularly during pre-trial investigations. The lack of access to external legal advice and medical assistance, as well as to family members, increases the likelihood that conduct violating the Convention will not be appropriately pursued and punished;

(f) The requirement of article 100 of the statute of the Directorate of Public Security for an investigating officer to endeavour "by judicious means" to ascertain the reasons for an individual's silence. While the article in question formally proscribes resort to torture or coercion, such a requirement unjustifiably heightens the risk of conduct violating the Convention;

(g) Cases of deportation of foreigners that have been drawn to the Committee's attention that seem to have been in breach of the obligations imposed by article 3 of the Convention;

(h) The jurisdiction of the Mutawe'en officials to pursue, inter alia, violations of the moral code and to proscribe conduct they identify as not conducive to public morality and safety. The Committee is concerned that the powers of these officials are vaguely defined by law, and that their activities may violate the Convention;

(i) The apparent failure of the State party to provide effective mechanisms to investigate complaints of breaches of the Convention;

(j) While noting the State party's institution of mechanisms for the purpose of providing compensation for conduct in violation of the Convention, as a practical matter, compensation appears to be rarely obtained, and full enjoyment of the rights guaranteed by the Convention is consequently limited.

D. Recommendations

8. The Committee recommends, in particular, that the State party:

(a) Expressly incorporate within its domestic law a crime of torture in terms that are consistent with article 1 of the Convention;

(b) Re-examine its imposition of corporal punishments, which are in breach of the Convention;

(c) Ensure that its laws are in practice applied to all persons, regardless of nationality, gender, religious affiliation or other distinction, insofar as issues arising under the Convention are concerned;

(d) Ensure that all places of detention or imprisonment conform to standards sufficient to guarantee that no person is thereby subjected to torture or cruel, inhuman or degrading treatment or punishment;

(e) Ensure that its law and practice reflect the obligations imposed by article 3 of the Convention;

(f) Ensure that all persons who have been victims of a violation of their rights under the Convention have access, in law as well as in practice, to the means of obtaining full redress, including compensation, and that the persons who may be responsible for such violations are promptly and impartially investigated, and thereupon punished;

(g) Ensure that its Mutawe'en officials exercise a clear and precise jurisdiction, in conformity with the Convention and other applicable rules of non-discrimination, in a manner regulated by law and subject to review by ordinary judicial authority;

(h) Ensure, in practice, that persons detained in custody are able to exercise prompt access to legal and medical expertise of choice, to family members and, in the case of foreign nationals, to consular personnel;

(i) Ensure that the composition of the judiciary fully conforms to the standards imposed by the Basic Principles on the Independence of the Judiciary;

(j) Ensure that its training of law enforcement personnel includes education and information on the recognition of the physical consequences of torture consistent with that provided to a number of its medical personnel, in accordance with article 10 of the Convention;

(k) Adopt adequate measures to permit the creation of independent non-governmental organizations and the development of their activities in the area of the defence of human rights;

(l) Provide data in the next periodic report disaggregated, inter alia, by age, gender, ethnicity, nationality, geography and other status, on persons who are deprived of their liberty in prisons or elsewhere, or who are otherwise sanctioned where they may be vulnerable to acts in breach of the Convention, and the results of any cases of prosecution or sanction of police or other officials for acts prohibited by the Convention;

(m) Consider making the declaration under article 22 of the Convention; and

(n) Widely disseminate the Committee's conclusions and recommendations, in all appropriate languages, in the country.